

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Duluth, Missabe and Iron Range Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it assigned outside forces to install a new roof on the Car Shop in Proctor, Minnesota (System Claim 33-86).

(2) As a consequence of the aforesaid violation, the Carrier shall:

'... pay the amount of Hours of each employee hired by the contractor during the length of time the contractor is on the property. This time will be divided by the amount of employees furloughed on the Missabe Division at the time they are furloughed in the fall or summer. In the event no employees are furloughed the amount will be divided between all employees working in the Proctor jurisdiction at the time the contractor is on the property. Also if employees are furloughed for each day the contractor is on the property each employee furloughed will be credited for the amount of days the contractor is on the property towards their vacation requirements. This is on account of their loss of work opportunity and monetary losses. Also their insurance under Blue Cross will be extended to cover for their days lost to the contractor in which it would of been extended.'"

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

At conference on March 7, 1986, the Carrier notified the Organization that it intended to contract out the construction of a new roof on the Proctor Car Shop. By letter of March 12, 1986, the Carrier formally notified the Organization of its intentions:

"This will confirm our conference of March 7, 1986, wherein we notified you of the Carrier's intention to contract the construction of a new roof on the Proctor Car Shop. A description of the work, and the reasons it must be contracted are as follows:

A. Description of Work to be Contracted

This project consists of furnishing all material, labor, equipment and supervision for installation of a new standing seam metal roof, rigid urethane insulation on the furthest east and west exterior roof slopes, 26 48"-deep x 66'-long joist girders, to span the peaks of the Car Shop, a 2-1/2"-thick sprayed urethane insulation on the interior slopes of the sawtooth roof (under the new 48" joist girders and roofing spanning the peaks), and end wall closures of the sawtooth area at both ends of the building consisting of structural framing, metal prepainted panel sections and louvers for ventilation of that area. The total area to be roofed is approximately 60,000 ft. The building's length of 412' requires the 48"-deep joist girders to be set from the edge of the building; a minimum of some 73' (to centerline of the new joist girder from the nearest east existing wall of the building) and a maximum of 206' from the north or south walls of the building. In addition, skylights on the east roof slope of the building will need to be removed, framed in and covered. Flashing and sheet metal work will have to be provided for the six existing furnace stacks and the installation of new roof ventilators. To maintain the color scheme consistent with other buildings in the Proctor area, the standing seam metal roofing will need to be precoated with a paint coating finish to meet our color requirements and with a 20-year coating warranty. Delivery on this material alone is estimated at nine weeks.

B. Reasons for Work to Contracted

The work will require special large cranes with jib boom attachments to allow the contractor to set the 48" joist girders in one piece from the ground. In addition, the sprayed urethane foam insulation requires specialized equipment and knowledgeable and experienced operators to do a proper job; inexperienced or new operators in this area have not been successful in installation of this type of insulating material. There is considerable hazard to workmen working on the existing steeply sloped roofs of this building. The alteration of the existing roof and structural steel, and the installation of all new roofing materials and structural steel will require working on these surfaces. Extensive coordination will be necessary so that no work of the Car Shop is delayed or interfered with during the construction period."

Supplement No. 3 provides:

"Contracting of Work

(a) The Railway Company will make every reasonable effort to perform all maintenance work in the Maintenance of Way and Structures Department with its own forces.

(b) Consistent with the skills available in the Bridge and Building Department and the equipment owned by the Company, the Railway Company will make every reasonable effort to hold to a minimum the amount of new construction work contracted.

(c) Except in emergency cases where the need for prompt action precludes following such procedure, whenever work is to be contracted, the Carrier shall so notify the General Chairman in writing, describe the work to be contracted, state the reason or reasons therefor, and afford the General Chairman the opportunity of discussing the matter in conference with Carrier representatives. In emergency cases, the Carrier will attempt to reach an understanding with the General Chairman in conference, by telephone if necessary, and in each case confirm such conference in writing.

(d) It is further understood and agreed that the Company can continue in accordance with past practice the contracting of right-of-way cutting, weed spraying, ditching and grading."

Stripping the parties' arguments to their essence, the Organization argues that the employees have performed similar work in the past and were capable of performing the work on the Proctor Shop roof while the Carrier disputes the similarity of prior work and argues that the required skills and equipment were not available. We have carefully examined the record and considering the installation of the particular roof truss needed in this project (66 feet long), the need for large jib cranes not owned by the Carrier and the kind of roofing material used on the project coupled with the steep slopes and heights on this particular project we conclude that the kind of project involved in this matter was sufficiently different from other projects previously performed by the employees. We find that in this particular case the project fell within the language of Supplement No. 3 permitting the contracting of such work. See Third Division Award 28758.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Devey - Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1992.